

REFERENCE TITLE: vehicle impoundment; lacking proper endorsement

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1137

Introduced by
Senator Gray L

AN ACT

AMENDING SECTIONS 28-3511 AND 28-3512, ARIZONA REVISED STATUTES; RELATING TO
VEHICLE IMPOUNDMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-3511, Arizona Revised Statutes, is amended to
3 read:

4 28-3511. Removal and immobilization or impoundment of vehicle

5 A. A peace officer shall cause the removal and either immobilization
6 or impoundment of a vehicle if the peace officer determines that a person is
7 driving the vehicle while ~~either~~ ANY of the following applies:

8 1. The person's driving privilege is suspended or revoked for any
9 reason.

10 2. The person has not ever been issued a valid driver license or
11 permit by this state and the person does not produce evidence of ever having
12 a valid driver license or permit issued by another jurisdiction.

13 3. The person is subject to an ignition interlock device requirement
14 pursuant to chapter 4 of this title and the person is operating a vehicle
15 without a functioning certified ignition interlock device. This paragraph
16 does not apply to a person operating an employer's vehicle or the operation
17 of a vehicle due to a substantial emergency as defined in section 28-1464.

18 4. THE PERSON IS OPERATING A VEHICLE REQUIRING AN ENDORSEMENT AND THE
19 PERSON HAS NOT EVER BEEN ISSUED BY THIS STATE AN ENDORSEMENT FOR THE TYPE OF
20 VEHICLE BEING OPERATED AND THE PERSON DOES NOT PRODUCE EVIDENCE OF EVER
21 HAVING BEEN ISSUED BY ANOTHER JURISDICTION AN ENDORSEMENT FOR THE TYPE OF
22 VEHICLE BEING OPERATED.

23 B. A peace officer shall cause the removal and impoundment of a
24 vehicle if the peace officer determines that a person is driving the vehicle
25 and if all of the following apply:

26 1. The person's driving privilege is canceled, suspended or revoked
27 for any reason or the person has not ever been issued a driver license or
28 permit by this state and the person does not produce evidence of ever having
29 a driver license or permit issued by another jurisdiction.

30 2. The person is not in compliance with the financial responsibility
31 requirements of chapter 9, article 4 of this title.

32 3. The person is driving a vehicle that is involved in an accident
33 that results in either property damage or injury to or death of another
34 person.

35 C. Except as provided in subsection D of this section, while a peace
36 officer has control of the vehicle the peace officer shall cause the removal
37 and either immobilization or impoundment of the vehicle if the peace officer
38 has probable cause to arrest the driver of the vehicle for a violation of
39 section 4-244, paragraph 33 or section 28-1382 or 28-1383.

40 D. A peace officer shall not cause the removal and either the
41 immobilization or impoundment of a vehicle pursuant to subsection C of this
42 section if all of the following apply:

43 1. The peace officer determines that the vehicle is currently
44 registered and that the driver or the vehicle is in compliance with the
45 financial responsibility requirements of chapter 9, article 4 of this title.

1 2. The spouse of the driver is with the driver at the time of the
2 arrest.

3 3. The peace officer has reasonable grounds to believe that the spouse
4 of the driver:

5 (a) Has a valid driver license.

6 (b) Is not impaired by intoxicating liquor, any drug, a vapor
7 releasing substance containing a toxic substance or any combination of
8 liquor, drugs or vapor releasing substances.

9 (c) Does not have any spirituous liquor in the spouse's body if the
10 spouse is under twenty-one years of age.

11 4. The spouse notifies the peace officer that the spouse will drive
12 the vehicle from the place of arrest to the driver's home or other place of
13 safety.

14 5. The spouse drives the vehicle as prescribed by paragraph 4 of this
15 subsection.

16 E. Except as otherwise provided in this article, a vehicle that is
17 removed and either immobilized or impounded pursuant to subsection A, B or C
18 of this section shall be immobilized or impounded for thirty days. An
19 insurance company does not have a duty to pay any benefits for charges or
20 fees for immobilization or impoundment.

21 F. The owner of a vehicle that is removed and either immobilized or
22 impounded pursuant to subsection A, B or C of this section, the spouse of the
23 owner and each person identified on the department's record with an interest
24 in the vehicle shall be provided with an opportunity for an immobilization or
25 poststorage hearing pursuant to section 28-3514.

26 Sec. 2. Section 28-3512, Arizona Revised Statutes, is amended to read:
27 28-3512. Release of vehicle; civil penalties; definition

28 A. An immobilizing or impounding agency shall release a vehicle to the
29 registered owner before the end of the thirty day immobilization or
30 impoundment period under any of the following circumstances:

31 1. If the vehicle is a stolen vehicle.

32 2. If the vehicle is subject to bailment and is driven by an employee
33 of a business establishment, including a parking service or repair garage,
34 who is subject to section 28-3511, subsection A, B or C.

35 3. If the owner was operating the vehicle at the time of removal and
36 either immobilization or impoundment and presents proof satisfactory to the
37 immobilizing or impounding agency that the owner's driving privilege has been
38 reinstated OR PROPERLY ENDORSED.

39 4. IF all of the following apply:

40 (a) The owner or the owner's agent was not the person driving the
41 vehicle pursuant to section 28-3511, subsection A.

42 (b) The owner or the owner's agent is in the business of renting motor
43 vehicles without drivers.

44 (c) The vehicle is registered pursuant to section 28-2166.

(d) There was a rental agreement in effect at the time of the immobilization or impoundment.

5. For the spouse of the owner or any person who is identified as an owner of the vehicle on the records of the department at the time of removal and either immobilization or impoundment, if the spouse or person was not the driver of the vehicle at the time of removal and either immobilization or impoundment and the spouse or person enters into an agreement with the immobilizing or impounding agency that stipulates that if the spouse or person allows a driver who does not have a valid driving privilege or a driver who commits a violation that causes the spouse's or person's vehicle to be removed and either immobilized or impounded pursuant to this article within one year after any agreement is signed by an immobilizing or impounding agency, the spouse or person will not be eligible to obtain release of the spouse's or person's vehicle before the end of the thirty day immobilization or impoundment period.

B. A vehicle shall not be released pursuant to subsection A of this section except pursuant to an immobilization or a poststorage hearing under section 28-3514 or if all of the following are presented to the immobilizing or impounding agency:

1. The owner's or owner's spouse's currently valid driver license issued by this state or the owner's or owner's spouse's state of domicile.

2. Proof of current vehicle registration or a valid salvage or dismantle certificate of title.

3. Proof that the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

4. If the person is required by the department to install a certified ignition interlock device on the vehicle, proof of installation of a functioning certified ignition interlock device in the vehicle. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall allow access during normal business hours to the impounded vehicle for the purpose of installing a certified ignition interlock device. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall not charge any fee or require compensation for providing access to the vehicle or for the installation of the certified ignition interlock device.

C. The owner or the owner's spouse if the vehicle is released to the owner's spouse is responsible for paying all immobilization, towing and storage charges related to the immobilization or impoundment of the vehicle and any administrative charges established pursuant to section 28-3513, unless the vehicle is stolen and the theft was reported to the appropriate law enforcement agency. If the vehicle is stolen and the theft was reported to the appropriate law enforcement agency, the operator of the vehicle at the time of immobilization or impoundment is responsible for all immobilization, towing, storage and administrative charges.

D. The immobilizing or impounding agency shall release a vehicle to a person, other than the owner, identified on the department's record as having an interest in the vehicle before the end of the thirty day immobilization or impoundment period if all of the following conditions are met:

1. The person is either of the following:

(a) In the business of renting motor vehicles without drivers and the vehicle is registered pursuant to section 28-2166.

(b) A motor vehicle dealer, bank, credit union or acceptance corporation or any other licensed financial institution legally operating in this state or is another person who is not the owner and who holds a security interest in the vehicle.

2. The person pays all immobilization, towing and storage charges related to the immobilization or impoundment of the vehicle and any administrative charges established pursuant to section 28-3513 unless the vehicle is stolen and the theft was reported to the appropriate law enforcement agency. If the vehicle is stolen and the theft was reported to the appropriate law enforcement agency, the operator of the vehicle at the time of immobilization or impoundment is responsible for all immobilization, towing, storage and administrative charges.

3. The person presents foreclosure documents or an affidavit of repossession of the vehicle.

4. The person requesting release of the vehicle was not the person driving the vehicle at the time of removal and immobilization or impoundment.

E. Before a person described in subsection D of this section releases the vehicle to the owner who was operating the vehicle at the time of removal and immobilization or impoundment, the person described in subsection D of this section shall require the owner to present and shall retain for a period of at least three years from the date of releasing the vehicle a copy of all of the following:

1. A driver license issued by this state or the owner's or owner's agent's state of domicile.

2. A current vehicle registration or a valid salvage or dismantle certificate of title.

3. Evidence that the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

4. A PROPER ENDORSEMENT IF REQUIRED.

F. The person described in subsection D of this section may require the owner to pay charges that the person incurred in connection with obtaining custody of the vehicle, including all immobilization, towing and storage charges that are related to the immobilization or impoundment of the vehicle and any administrative charges that are established pursuant to section 28-3513.

G. A vehicle shall not be released after the end of the thirty day immobilization or impoundment period unless the owner or owner's agent presents all of the following to the impounding or immobilizing agency:

1 1. A valid driver license issued by this state or by the owner's or
2 owner's agent's state of domicile.

3 2. A current vehicle registration or a valid salvage or dismantle
4 certificate of title.

5 3. Evidence that the vehicle is in compliance with the financial
6 responsibility requirements of chapter 9, article 4 of this title.

7 4. If the person is required by the department to install a certified
8 ignition interlock device on the vehicle, proof of installation of a
9 functioning certified ignition interlock device in the vehicle. The
10 impounding agency, storage yard, facility, person or agency having physical
11 possession of the vehicle shall allow access during normal business hours to
12 the impounded vehicle for the purpose of installing a certified ignition
13 interlock device. The impounding agency, storage yard, facility, person or
14 agency having physical possession of the vehicle shall not charge any fee or
15 require compensation for providing access to the vehicle or for the
16 installation of the certified ignition interlock device.

17 **5. A PROPER ENDORSEMENT IF REQUIRED.**

18 H. The storage charges relating to the impoundment of a vehicle
19 pursuant to this section shall be subject to a contractual agreement between
20 the impounding agency and a towing firm for storage services pursuant to
21 section 28-1108 but shall not exceed fifteen dollars for each day of storage,
22 including any time the vehicle remains in storage after the end of the thirty
23 day impoundment period.

24 I. The immobilizing or impounding agency shall have no lien or
25 possessory interest in a stolen vehicle if the theft was reported to the
26 appropriate law enforcement agency. The immobilizing or impounding agency
27 shall release the vehicle to the owner or person other than the owner as
28 identified in subsection D of this section even if the operator at the time
29 of immobilization or impoundment has not paid all immobilization, towing,
30 storage and administrative charges.

31 J. A person who enters into an agreement pursuant to subsection A,
32 paragraph 5 of this section and who allows another person to operate the
33 vehicle in violation of the agreement is responsible for a civil traffic
34 violation and shall pay a civil penalty of at least two hundred fifty
35 dollars.

36 K. A person described in subsection D, paragraph 1 of this section who
37 violates subsection E of this section is responsible for a civil traffic
38 violation and shall pay a civil penalty of at least two hundred fifty
39 dollars.

40 L. For the purposes of this section, "certified ignition interlock
41 device" has the same meaning prescribed in section 28-1301.